

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MILAGROS RAYRAY SURATOS,

Petitioner,

vs.

CAROLYN MYLES, et al.,

Respondents.

2:11-cv-00955-KJD-GWF

ORDER

This action was dismissed by the Court upon a motion to dismiss that went unopposed by the petitioner (ECF No. 12). Petitioner has filed an appeal (ECF No. 14).

In order to proceed with an appeal from this court, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.* The Supreme Court has held that a petitioner “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The Supreme Court further illuminated the standard for issuance of a certificate of appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The Court stated in that case:

We do not require petitioner to prove, before the issuance of a COA, that some jurists would grant the petition for habeas corpus. Indeed, a claim can be debatable even though every jurist of reason might agree, after the COA has been granted and the case has received full consideration, that petitioner will not prevail. As we stated in *Slack*, “[w]here a district court has rejected the constitutional claims on the merits, the showing required

1 to satisfy § 2253(c) is straightforward: The petitioner must demonstrate
2 that reasonable jurists would find the district court's assessment of the
constitutional claims debatable or wrong."

3 *Id.* at 1040 (quoting *Slack*, 529 U.S. at 484).
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5 The Court has considered the issues raised by petitioner, with respect to whether they
6 satisfy the standard for issuance of a certificate of appeal, and the Court determines that none meet that
7 standard. Accordingly, the Court will deny petitioner a certificate of appealability.

8 **IT IS THEREFORE ORDERED** that petitioner is **DENIED A CERTIFICATE OF**
9 **APPEALABILITY.**

10 DATED: November 29, 2011

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12 UNITED STATES DISTRICT JUDGE
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